UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USpatents@armstrongteasdale.com

	Application No.	Applicant(s)
Office Action Summary	10/748,714	NICHOLS ET AL.
	Examiner	Art Unit	
	Eliza Squires	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>30 December 2003</u>.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-40</u> is/are pending in the application.
     4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>1-40</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on <u>30 December 2003</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
     a) ☐ All   b) ☐ Some * c) ☐ None of:
         1. ☐ Certified copies of the priority documents have been received.
         2. ☐ Certified copies of the priority documents have been received in Application No. _____.
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date <u>2/4/05</u>.
4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This communication is in response to the application filed on 30 December 2003. Claims 1-40

are pending.

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

2.   **Claim 38** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

        a.   The claim recites "wherein the surgical procedure, the guideline and the

        customized item may be selected…" the clam from which the instant claim depends,

        claim 37, recites "selecting a surgical procedure, guideline, <u>or</u> customized item" it is

        therefore unnecessary in claim 37 to show the selection of each of a surgical procedure,

        guideline, and customized item. Claim 37, therefore, only requires that one of the listed

        characteristics be met to meet the limitations of the claim. It is unclear how in claim 38

        each of the items are able to be selected in the system. For the purposes of examination

        the claim shall read as read in the independent claim, "…wherein the surgical procedure,

        the guideline, or the customized item may be selected…"

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4.   **Claims 1-2** are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No.

5,991,728 to *DeBusk et al.*

5.   **As to claim 1,** *DeBusk* discloses a method of selecting apparel products for surgical

procedures, the method comprising:

        executing program code in a data processing system in order to determine surgical

procedures that are associated with a type of apparel (*DeBusk* figures 2, 3, and 5 and column 2

lines 62-67; column 4 lines 45-65);

        selecting one of the surgical procedures (*DeBusk* figures 8 and 9; column 15 lines 17-31);

and

        executing program code in the data processing system in order to determine apparel

products that are associated with the selected surgical procedure (*DeBusk* figures 2, 3, and 5 and

column 2 lines 62-67; column 4 lines 45-65).

6.   **As to claim 2,** see the discussion of claim 1, additionally, *DeBusk* discloses the method

further comprising selecting one of the apparel products for purchase (*DeBusk* figures 16, 8, and

9; column 15 lines 17-31).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis

for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7.   **Claims 6-8, 10-13** are rejected under 35 U.S.C. 102(a) as being anticipated by Medical

Supplies & Equipment Company website obtained via http://web.archive.org/ for the date

9/26/2003 hereinafter referred to as *MSEC.*

8.   **As to claim 6,** *MSEC* discloses a method of selecting apparel products for surgical

procedures, the method comprising:

executing program code in a data processing system in order to determine guidelines that

are associated with a type of apparel; selecting one of the guidelines (*MSEC* page 1 wherein

"Disposable and Patient Gowns" is a guideline); and

executing program code in the data processing system in order to determine apparel

products that are associated with the selected guideline (*MSEC* page 3).

9.   **As to claim 7,** see the discussion of claim 6, *MSEC* discloses the method further

comprising selecting one of the apparel products for purchase (*MSEC* pages 2 and 3).

10.   **As to claim 8,** see the discussion of claim 6, additionally, *MSEC* discloses the method

further comprising selecting one of the apparel products to obtain information on the selected

apparel product (*MSEC* page 2).

11.   **As to claim 10,** see the discussion of claim 6, additionally, *MSEC* discloses the method

further comprising:

executing program code in the data processing system in order to determine customized

items that are associated with the apparel products (*MSEC* pages 1-3);

selecting one of the customized items (*MSEC* page 3); and

executing program code in the data processing system in order to determine which of the

apparel products are associated with the selected customized item (*MSEC* page 2).

12.   **As to claim 11,** *MSEC* discloses a method of selecting apparel products for surgical

procedures, the method comprising:

executing program code in the data processing system in order to determine customized

items that are associated with a type of apparel (*MSEC* pages 1-3);

selecting one of the customized items (*MSEC* page 3); and

executing program code in the data processing system in order to determine apparel

products that are associated with the selected customized item (*MSEC* page 2).

13.   **As to claim 12,** see the discussion of claim 11, additionally, *MSEC* discloses the method

further comprising selecting one of the apparel products for purchase (*MSEC* pages 2 and 3).

14.   **As to claim 13,** see the discussion of claim 11, additionally, *MSEC* discloses the method

further comprising selecting one of the apparel products to obtain information on the selected

apparel product (*MSEC* page 2).

Claim Rejections - 35 USC § 103

15.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

16.   **Claims 3-5, 9, 14, 16-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over

DeBusk in view of *MSEC*.

17.   **As to claim 3,** *DeBusk* discloses the system substantiallty as cliamed in claim 1;

however, *DeBusk* does not explicitly teach obtaining information about the selected apparel

product. *MSEC* discloses the method further comprising selecting one of the apparel products to

obtain information on the selected apparel product (*MSEC* pages 1-3).

It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify the method of *DeBusk* with the information about apparel product of *MSEC* since the

combination would improve the user's knowledge about the particular product so that a more

informed decision regarding purchase can be made.

18.   **As to claim 4,** *DeBusk* discloses the system substantially as claimed in claim 1; however,

DeBusk does not explicitly teach guidelines associated with an apparel product. *MSEC* discloses

the method further comprising:

executing program code in the data processing system in order to determine guidelines

that are associated with the apparel products; and selecting one of the guidelines (*MSEC* page 1

wherein "Disposable and Patient Gowns" is a guideline); and

executing program code in the data processing system in order to determine which of the apparel products are associated with the selected guideline (*MSEC* page 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of *DeBusk* with the association to guidelines of *MSEC* since the combination would improve the user's ability to navigate a large store of data efficiently.

19.   **As to claim 5,** *DeBusk* discloses the system substantially as claimed in claim 1; however, *DeBusk* does not explicitly teach customized apparel products. *MSEC* discloses the method further comprising:

executing program code in the data processing system in order to determine customized items that are associated with the apparel products (*MSEC* pages 1-3);

selecting one of the customized items (*MSEC* page 3); and

executing program code in the data processing system in order to determine which of the apparel products are associated with the selected customized item (*MSEC* page 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of *DeBusk* with the information about apparel product of *MSEC* since the combination would improve the user's knowledge about the particular product so that a more informed decision regarding purchase can be made.

20.   **As to claim 9,** *MSEC* discloses the system substantially as claimed in claim 6 above; however, *MSEC* does not explicitly teach that apparel products are associated with surgical procedures. *DeBusk* discloses the method further comprising:

executing program code in a data processing system in order to determine surgical

procedures that are associated with the apparel products; selecting one of the surgical procedures

(*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65); and

executing program code in the data processing system in order to determine which of the

apparel products are associated with the selected surgical procedure (*DeBusk* figures 2, 3, and 5

and column 2 lines 62-67; column 4 lines 45-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify the system of *MSEC* with the information about apparel in relation to surgical

proceedures of *DeBusk* since the combination would improve the user's knowledge about the

particular product so that a more informed decision regarding purchase can be made.

21.   **As to claim 14,** *MSEC* discloses the system substantially as disclosed in claim 11 above;

however *MSEC* does not explicitly teach that apparel products are associated with surgical

procedures. *DeBusk* discloses the method further comprising:

executing program code in a data processing system in order to determine surgical

procedures that are associated with the apparel products; selecting one of the surgical procedures

(*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65); and

executing program code in the data processing system in order to determine which of the

apparel products are associated with the selected surgical procedure (*DeBusk* figures 2, 3, and 5

and column 2 lines 62-67; column 4 lines 45-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify the system of *MSEC* with the information about apparel in relation to surgical

procedures of *DeBusk* since the combination would improve the user's knowledge about the

particular product so that a more informed decision regarding purchase can be made.

22.   **As to claim 16,** *DeBusk* discloses a method of selecting apparel products for surgical

procedures, the method comprising:

       entering a surgical procedure into a data processing system (*DeBusk* figures 16, 8, and 9;

column 15 lines 17-31); and

       executing program code in a data processing system in order to determine apparel

products that are associated with a surgical procedure (*DeBusk* figures 2, 3, and 5 and column 2

lines 62-67; column 4 lines 45-65); and

       However, *DeBusk* does not explicitly disclose displaying the apparel products to a user.

MSEC discloses:

       displaying the apparel products to a user (*MSEC* pages 2-3).

       It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify *DeBusk* with *MSEC* since the combination would enhance the users information

regarding an apparel item so that a more informed decision can be made regarding its purchase.

23.   **As to claim 17,** see the discussion of claim 16, additionally, *MSEC* discloses the method

further comprising selecting one of the apparel products for purchase (*MSEC* pages 2 and 3).

24.   **As to claim 18,** see the discussion of claim 16, additionally, *MSEC* discloses the method

further comprising selecting one of the apparel products to obtain information on the selected

apparel product (*MSEC* pages 2 and 3).

25.   **As to claim 19,** see the discussion of claim 17, additionally, *MSEC* discloses the method

further comprising:

executing program code in the data processing system in order to determine guidelines

associated with the apparel products; selecting one of the guidelines (*MSEC* page 1 wherein

"Disposable and Patient Gowns" is a guideline); and

executing program code in the data processing system in order to determine which of the

apparel products are associated with the selected guideline (*MSEC* page 3).

26.   **As to claim 20,** see the discussion of claim 16, additionally, *MSEC* discloses the method

further comprising:

executing program code in the data processing system in order to determine customized

items associated with the apparel products (*MSEC* pages 1-3);

selecting one of the customized items (*MSEC* page 3); and

executing program code in the data processing system in order to determine which of the

apparel products are associated with the selected customized item (*MSEC* page 2).

27.   **Claims 21-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over *DeBusk* in

view of U.S. Patent No. 6,272,472 to *Danneels et al.*

28.   **As to claim 21,** *DeBusk* discloses a data processing system comprising:

program code stored wherein executing the program code includes determining surgical

procedures that are associated with a type of apparel entered by a user (*DeBusk* figures 2, 3, and

5 and column 2 lines 62-67; column 4 lines 45-65);

accepting one of the surgical procedures as selected by the user (*DeBusk* figures 8 and 9;

column 15 lines 17-31); and

determining apparel products that are associated with the selected surgical procedure

(*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65).

However, *DeBusk* does not disclose a computer readable storage medium containing

code. *Danneels* teaches a computer-implemented method realized as one or more programs on a

computer (see column 2, lines 40-46 *of Danneels*). In addition, *Danneels* teaches that the

programs are storable on a computer-readable medium such as a floppy disk or a CD-ROM (see

column 2, lines 46-49 of *Danneels*).

It would have been prima facie obvious to one of ordinary skill in the art at the time of

the invention to incorporate this feature into the method of *DeBusk*. One of ordinary skill in the

art would have been motivated to incorporate this feature for the purpose of distribution and

installation and execution of the software on another computer (see column 7, lines 46-49 of

Danneels et al.).

29.   **As to claim 22,** see the discussion of claim 21, additionally, *DeBusk* discloses the data

processing system wherein the program code includes an apparel database containing data on

apparel and a surgical procedures database containing data on surgical procedures (*DeBusk*

column 8 lines 48-67).

30.   **Claims 23-24, 27, 31, 33-36, 37-40** are rejected under 35 U.S.C. 103(a) as being

unpatentable over *DeBusk* in view of *Danneels* in further view of *MSEC*.

31.   **As to claim 23,** *Debusk* and *Danneels* disclose the system substantially as claimed in

claim 21 above; however, the references do not explicitly teach associating apparel with

guidelines. *MSEC* discloses the data processing system wherein executing the program code

includes determining guidelines that are associated with the apparel products, accepting a

guideline as selected by the user (*MSEC* page 1 wherein "Disposable and Patient Gowns" is a

guideline); and

         determining which of the apparel products are associated with the selected guideline

(*MSEC* page 3).

         It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify the method of *DeBusk* and *Danneels* with the association to guidelines of *MSEC* since

the combination would improve the user's ability to navigate a large store of data efficiently.

32.   **As to claim 24,** *Debusk* and *Danneels* disclose the system substantially as claimed in

claim 21 above; however, the references do not explicitly teach customized apparel products.

MSEC discloses the data processing system wherein

         executing the program code includes determining customized items that are associated

with the apparel products (*MSEC* pages 1-3);

         accepting a customized item as selected by the user (*MSEC* page 3); and

         determining which of the apparel products are associated with the selected customized

item (*MSEC* page 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of *DeBusk* with the information about apparel product of *MSEC* since the combination would improve the user's knowledge about the particular product so that a more informed decision regarding purchase can be made.

33.   **As to claim 27,** *MSEC* and *Danneels* disclose the system substantially as claimed in claim 25 above; however, the references do not explicitly teach associating an apparel product with a surgical procedure. *DeBusk* discloses the data processing system wherein executing the program code includes

determining surgical procedures that are associated with the apparel products, accepting a surgical procedure as selected by the user (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65); and

determining which of the apparel products are associated with the selected surgical procedure (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of *MSEC* and *Danneels* with the information about apparel in relation to surgical procedures of *DeBusk* since the combination would improve the user's knowledge about the particular product so that a more informed decision regarding purchase can be made.

34.   **As to claim 31,** *MSEC* and *Danneels* disclose the system substantially as claimed in claim 29 above; however, the references do not explicitly teach associating an apparel product with a surgical procedure. *DeBusk* discloses the data processing system wherein executing the program code includes determining surgical procedures that are associated with the apparel

products, accepting a surgical procedure as selected by the user(*DeBusk* figures 2, 3, and 5 and

column 2 lines 62-67; column 4 lines 45-65); and

      determining which of the apparel products are associated with the selected surgical

procedure (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65).

      It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify the system of *MSEC* and *Danneels* with the information about apparel in relation to

surgical procedures of *DeBusk* since the combination would improve the user's knowledge about

the particular product so that a more informed decision regarding purchase can be made.

35.   **As to claim 33,** *DeBusk* discloses a data processing system comprising:

      program code; wherein executing the program code includes accepting a surgical

procedure entered by a user (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4

lines 45-65);

      determining types of apparel that are associated with the surgical procedure entered by

the user, accepting one type of apparel as selected by the user (*DeBusk* figures 2, 3, and 5 and

column 2 lines 62-67; column 4 lines 45-65).

      However, *DeBusk* does not explicitly disclose determining apparel products that are

associated with the selected type of apparel. *MSEC* discloses;

      determining apparel products that are associated with the selected type of apparel (*MSEC*

pages 1-3).

      It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify *DeBusk* with *MSEC* since the combination would increase the amount of information

available to the user and ease navigation through the interface so that a user could be better

informed prior to product purchase.

Additionally, *DeBusk* and *MSEC* do not disclose a computer readable storage medium

containing code. *Danneels,* teaches a computer-implemented method realized as one or more

programs on a computer (see column 2, lines 40-46 *of Danneels)*. In addition, *Danneels* teaches

that the programs are storable on a computer-readable medium such as a floppy disk or a CD-

ROM (see column 2, lines 46-49 of *Danneels)*.

It would have been prima facie obvious to one of ordinary skill in the art at the time of

the invention to incorporate this feature into the system of *DeBusk* and *MSEC*. One of ordinary

skill in the art would have been motivated to incorporate this feature for the purpose of

distribution and installation and execution of the software on another computer (see column 7,

lines 46-49 of *Danneels* et al.).

36.   **As to claim 34,** see the discussion of claim 33, additionally, *DeBusk* discloses the data

processing system wherein the program code includes an apparel database containing data on

apparel and a surgical procedures database containing data on surgical procedures (*DeBusk*

column 8 lines 48-67).

37.   **As to claim 35,** see the discussion of claim 33, additionally, *MSEC* discloses the data

processing system wherein executing the program code includes determining guidelines that are

associated with the apparel products, accepting a guideline as selected by the user (*MSEC* page 1

wherein "Disposable and Patient Gowns" is a guideline); and

determining which of the apparel products are associated with the selected guideline

(*MSEC* page 3).

38.   **As to claim 36,** see the discussion of claim 33, additionally, *MSEC* discloses the data

processing system wherein executing the program code includes determining customized items

that are associated with the apparel products (*MSEC* pages 1-3);

accepting a customized item as selected by the user, and determining which of the

apparel products are associated with the selected customized item (*MSEC* page 2-3).   Examiner

notes that on page 2 of *MSEC* one can select blue or white customizations of the disposable

gown. Additionally at the bottom of page 3 of *MSEC* one can select women's medical scubs and

nursing scrub tops while conversely one can select those products customized for a man.

39.   **As to claim 37,** *DeBusk* discloses a method of selecting apparel products for surgical

procedures, the method comprising:

executing program code in a data processing system in order to determine types of

surgical procedures that are associated with a type of apparel (*DeBusk* figures 2, 3, and 5 and

column 2 lines 62-67; column 4 lines 45-65);

However, *DeBusk* does not disclose associating guidelines and customizations with

apparel. *MSEC* discloses types of customizations and guidelines associated with apparel (*MSEC*

pages 1-3)

selecting a guideline (*MSEC* page 1);

executing program code in the data processing system in order to determine apparel products that

are associated with the selected guideline (*MSEC* pages 1 and 3);

selecting another of a guideline that was not previously selected (*MSEC* page 1 wherein

multiple guideline paths can be followed);

executing program code in the data processing system in order to determine apparel

products that are associated with the selected guideline or customized item that was not

previously selected (*MSEC* page 1 and 3);

selecting a remaining guideline that was not previously selected (*MSEC* page 1); and

executing program code in the data processing system in order to determine apparel

products that are associated with the selected remaining guideline (*MSEC* page 1 and 3).

40.   **As to claim 38,** see the discussion of claim 37, additionally *MSEC* discloses the method

wherein the guideline may be selected in any order (*MSEC* page 1 and 3).

41.   **As to claim 39,** a data processing system comprising:

program code, wherein executing the program code includes accepting a type of apparel

entered by a user (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65);

determining surgical procedures that are associated with the type of apparel entered by

the user user (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65);

selecting one of the surgical procedures (*DeBusk* figures 8 and 9; column 15 lines 17-31);

determining apparel products that are associated with the selected surgical procedure,

selecting another of the surgical procedures that was not previously selected (*DeBusk*

figures 8 and 9; column 15 lines 17-31);

determining apparel products that are associated with the selected another surgical

procedure (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65);

selecting a remaining one of the surgical procedures that was not previously selected

(*DeBusk* figures 8 and 9; column 15 lines 17-31); and

determining apparel products that are associated with the selected remaining surgical

procedure (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65);

However, *DeBusk* does not disclose determining guidelines and customized items that are

associated with the type of apparel entered by the user, *MSEC* makes that teaching (*MSEC* pages

1-3).

Additionally, *DeBusk* and *MSEC* do not disclose a computer readable storage medium

containing code. *Danneels* teaches a computer-implemented method realized as one or more

programs on a computer (see column 2, lines 40-46 *of Danneels*). In addition, *Danneels* teaches

that the programs are storable on a computer-readable medium such as a floppy disk or a CD-

ROM (see column 2, lines 46-49 of *Danneels*).

It would have been prima facie obvious to one of ordinary skill in the art at the time of

the invention to incorporate this feature into the method of *DeBusk* and *MSEC*. One of ordinary

skill in the art would have been motivated to incorporate this feature for the purpose of

distribution and installation and execution of the software on another computer (see column 7,

lines 46-49 of *Danneels* et al.).

42.   **As to claim 40,** see the discussion of claim 39, additionally *MSEC* and *DeBusk* discloses

the data processing system wherein the program code includes an apparel database containing

data on apparel (*MSEC* pages 1-3), a surgical procedures database containing data on surgical

procedures(*DeBusk* column 8 lines 48-67), a guidelines database containing data on guidelines

and a personal database containing data on customized items (*MSEC* pages 1-3).

43.   **Claims 25-26, 28-30, 32** are rejected under 35 U.S.C. 103(a) as being unpatentable over

MSEC in view of *Danneels.*

44.   **As to claim 25,** *MSEC* discloses a data processing system comprising:

program code, wherein executing the program code includes determining guidelines that

are associated with a type of apparel entered by a user, accepting one of the guidelines as

selected by the user (*MSEC* page 1 wherein "Disposable and Patient Gowns" is a guideline); and

determining apparel products that are associated with the selected guideline (*MSEC* page

3).

However, *MSEC* does not disclose a computer readable storage medium containing code.

Danneels, teaches a computer-implemented method realized as one or more programs on a

computer (see column 2, lines 40-46 *of Danneels).* In addition, *Danneels* teaches that the

programs are storable on a computer-readable medium such as a floppy disk or a CD-ROM (see

column 2, lines 46-49 of *Danneels).*

It would have been prima facie obvious to one of ordinary skill in the art at the time of

the invention to incorporate this feature into the method of *MSEC.* One of ordinary skill in the art

would have been motivated to incorporate this feature for the purpose of distribution and

installation and execution of the software on another computer (see column 7, lines 46-49 of

Danneels et al.).

45.   **As to claim 26,** see the discussion of claim 25, additionally, *MSEC* discloses the data

processing system wherein the program code includes an apparel database containing data on

apparel and a guidelines database containing data on guidelines (*MSEC* pages 1-3).

46.   **As to claim 28,** see the discussion of claim 25, additionally, *MSEC* discloses the data

processing system wherein executing the program code includes

    determining customized items that are associated with the apparel products (*MSEC* pages

1-3);

    accepting a customized item as selected by the user (*MSEC* page 3); and

    determining which of the apparel products are associated with the selected customized

item (*MSEC* page 2).

47.   **As to claim 29,** *MSEC* discloses a data processing system comprising:

    program code, wherein executing the program code includes determining customized

items that are associated with a type of apparel entered by a user (*MSEC* pages 1-3);

    accepting one of the customized items as selected by the user (*MSEC* page 3); and

    determining apparel products that are associated with the selected customized item

(*MSEC* page 2).

    However, *MSEC* does not disclose a computer readable storage medium containing code.

Danneels, teaches a computer-implemented method realized as one or more programs on a

computer (see column 2, lines 40-46 *of Danneels).* In addition, *Danneels* teaches that the

programs are storable on a computer-readable medium such as a floppy disk or a CD-ROM (see

column 2, lines 46-49 of *Danneels).*

    It would have been prima facie obvious to one of ordinary skill in the art at the time of

the invention to incorporate this feature into the method of *MSEC.* One of ordinary skill in the art

would have been motivated to incorporate this feature for the purpose of distribution and

installation and execution of the software on another computer (see column 7, lines 46-49 of

Danneels et al.).

48.   **As to claim 30,** see the discussion of claim 29, additionally, *MSEC* teaches the data

processing system wherein the program code includes an apparel database containing data on

apparel and a personal database containing data on customized items (*MSEC* pages 1-3 wherein

customized data is a choice of sizes and colors).

49.   **As to claim 32,** see the discussion of claim 29, additionally, *MSEC* discloses the data

processing system wherein executing the program code includes determining guidelines that are

associated with the apparel products, accepting a guideline as selected by the user, and

determining which of the apparel products are associated with the selected guideline (*MSEC*

pages 1-3).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eliza Squires whose telephone number is (571)270-7052. The examiner can normally be reached on Monday through Friday 8 am - 4 pm Eastern Standard Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. S./
Examiner, Art Unit 3626
12/11/08

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626